EXHIBIT 12
DATE 2-20-07
HB 654

Dick Paulsen

From: Ann Boonn [ABoonn@TobaccoFreeKids.org]
Sent: Friday, February 16, 2007 10:32 AM
To: 'dpaulsen@ala-nr.org'
Cc: Beverly May
Subject: FW: Daily Doc: Pilferage in Perspective

Hi!

Eric asked me to forward you this documentation on the issue of shoplifting and tobacco companies' placement payments in retail stores. Please feel free to contact me if you have further questions.

Ann Boonn
Campaign for Tobacco-Free Kids
1400 I Street NW, Suite 1200
Washington, DC 20005
Phone: 202-296-5469 Fax: 202-296-5427
Email: aboonn@tobaccofreekids.org

From: Eric Lindblom
Sent: Friday, February 16, 2007 12:07 PM
To: Ann Boonn
Subject: FW: Daily Doc: Pilferage in Perspective

This RJR document, below, talking about "display payments" and "shelf contract monies" might be helpful -- basically saying that if a store eliminates self-service displays and the cigarette company payments that accompany them, to eliminate pilferage they will actually come out behind, financially, than if they keep the shelf displays, pilferage and display payments.

It is important to note that while shoplifting reduces the effective price of cigarettes among those who shoplift and those who receive them or buy them at reduced prices from the shoplifters (thereby increasing use rates), the state still gets its taxes, since the tax has already been paid on the packs stolen.

– Eric

-----Original Message-----
From: Anne Landman [mailto:afoxland@gj.net]
Sent: Monday, October 25, 1999 2:24 PM
To: - Doc-Alert list
Subject: Daily Doc: Pilferage in Perspective

October 25, 1999

Sales of cigarettes to children are legally restricted. Meanwhile, cigarettes are consistently reported as the most shoplifted item in the country. The profile of the average shoplifter is that of a male between the ages of 14 and 16 years old, and surveys show that shoplifting is a significant means through which children and teens obtain cigarettes. Still, throughout the country, it is strikingly common for self-service displays of cigarettes to be placed where at child-level, out of the clerk's line of site, near the door, and next to toys, candy, soda pop, videos, etc. Why? Retailers are paid by tobacco companies to keep their displays in these locations. The payments are called "slotting" or "placement" fees. Placement fees more than offset the cost of stolen cigarettes, rendering retailers financially motivated to allow a certain number of their cigarettes to be stolen. Normally, market forces would dictate that if a small, expensive, and easily-concealed item is an ongoing target of theft, retailers would take actions to try and eliminate the thefts. Not so with cigarettes.

How much theft are retailers willing to accept in exchange for these payments? One retailer in our area (after discovering that she was losing an average of 300 packs a month out of one convenience store alone that was surrounded by schools), told us "It's easy to make $10,000 per store, per year on placement fees for cigarettes alone." Another owner of about 15 convenience stores in our area told us he makes $100,000 a year on cigarette placement fees. That amount would offset a substantial amount of stolen merchandise.

The following RJ Reynolds document is a guide designed to help cigarette merchandising reps talk retailers out of the "knee jerk reaction" of moving cigarettes out of reach of customers as a response to theft. From it, we can get an idea of how much theft is "acceptable." Certainly the payments make quite a bit more theft "acceptable" than would be the case in the absence of payments.

The last page of the document (Bates No. 514349015) uses an example of the average Winn Dixie (supermarket) that sells 450 cartons of cigarettes a week. An equation demonstrates that if this supermarket accepts up to a 6% pilferage rate while continuing to merchandise cigarettes the way the company wants them to (and accept the slotting fees), the store will still come out ahead financially.

At 450 cartons a week, a 6% pilferage rate equates to **5,400 cigarettes lost to theft every week.** According to this document, this amount would be **"acceptable."** This is from just **one grocery store**. Multiply this amount of theft times the number of grocery stores in the U.S. that accept slotting payments and put self-service tobacco racks within easy reach of children, and you'll start to see how this merchandising arrangement contributes to pediatric nicotine addiction.

Title: *Pilferage Presentation. Core Presentation.*
Type of Document: Report with graphics
Author: N/A (RJ Reynolds Company)
Recipient: N/A
Date: 19850912
Page count: 33
Site: RJ Reynolds Document site http://www.rjrtdocs.com/rjrtdocs.com/
Bates No. 514348983-9015
URL: (of the last page mentioned above) http://www.rjrtdocs.com/rjrtdocs.com/ImageDisp.jsc?NAME=NAVIGATION&NAVIGATION.ELEMENT=Next&NAVIGATION.ELEMENT=Last&

NOTE: RJR recently altered its site and this URL might not work. They have also removed the function that allowed you to load (and view) an entire document at one time, instead of page by page. The best way I've found to get today's document is to go to the RJR site, and enter as combined text the phrase *Pilferage Presentation. Core Presentation.* (Note the periods after the words. Enter it just that way, with the periods after the words).

Quote:

Profitability: Self-Service Carton Merchandising

- **Sales $__________**
- **Gross profit + display payments $__________**
- **minus pilferage $__________**
- **= net profit $ ______________**

Objective:

- **Maximize net profit**
- **Reduce pilferage to an acceptable level**

...Cigarette pilferage results in "kneejerk" reaction--move cigarettes to a non-self-service area to keep inventory shortage within acceptable limits.

- **Risk of making a wrong decision:**

-- Lost sales
-- Lost profits
-- Customer inconvenience (customer dissatisfaction, possible lost sales for other products)...

<u>**SUMMARY**</u>

The average Winn-Dixie selling 450 cartons of cigarettes per week will generate the following annual projections in Gross Profit. . . Including shelf contract monies $33,000.

Assuming 2.90% pilferage and merchandising cartons from self-service end-cap locations	**Assuming zero pilferage and merchandising cartons from non-self-service** [displays] **projecting loss in shelf contract monies only**

$28,046 -- compared to -- $28,000

Point: Shelf contract monies offset 2.90% of pilferage <u>before</u> any consideration is applied to loss in profit going to non-self-service.

Assuming 6% pilferage and merchandising cartons from end cap locations
[profits would be] **$22,751**

[Whereas] **assuming zero pilferage and merchandising cartons from non-self-service locations and projecting the following loss in gross profit due to non-self-service : 20% - $22,478**
25% - 21,097
30% - 19,716

POINT: Studies such as those discussed in the first part of this presentation show that end cap merchandising is the best way to merchandise carton cigarettes. It is not uncommon to decrease your profit by more than 30% to non-self-service.

Note: Exposing the tobacco displays/placement fees merchandising arrangment to the public is an effective way to help eliminate it in your area. While "slotting" or "placement" fees are common among manufacturers and retailers, most people don't know about them or how they affect the visual appearance of the market and motivate retailer behavior. These fees affect placement of all sorts of merchandise, from Campbells soups (never alphabetized on the shelf) to breakfast cereals (sugary kid-cereals in day-glow colored boxes on the bottom shelf, and high-fiber "adult" cereals on the top shelf) but Big Tobacco is known to pay the absolute highest slotting fees of any product.

Anne Landman, Regional Program Coordinator
American Lung Association of Colorado, West Region Office
Grand Junction, CO

KORNER STOP, INC.
GORDON VANDIVIERE
942 BROADWATER
BILLINGS, MT 59101
(406) 245-4924

FAX COVER SHEET

DATE: 2-20-07

TO: House Business Committee Members

FROM:

NUMBER OF PAGES: 2 (INCLUDES COVER SHEET)

COMMENTS: Re HB 654
Please Oppose

PLEASE CALL IF YOU HAVE ANY PROBLEMS RECEIVING THIS FAX AT:
KORNER STOP (406) 245-4924
FAX NUMBER: (406) 245-4924

House Business Committee
Feb 20 2007

Re HB 654

Dear House Committee Members:

If this bill were to pass, it would hurt hundreds of small businesses across the state of Montana, sending those who desire flavored products across the state line to purchase them. This would mean a loss to retailers and tax dollars for the State of Montana.

Currently in the convenience store industry our cashiers are required to be 18 years of age to sell other products. As far as unannounced compliance checks go, these have been going on for sometime already. It is against the law for anyone under 18 years to purchase flavored tobacco or any other kind of tobacco.

We do not need additional laws passed, but we need to simply enforce the laws that are already in place. I would urge you to oppose HB 654.

Thank you for your Consideration.

Gordon Vandeventer
942 Broadwater
Billings MT 59101
406 245-4924